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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,306

10/04/2005

John Peter Johnson

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1000 EAGLE GATE TOWER  
SALT LAKE CITY, UT 84111

EXAMINER

HOSSAIN, FARZANA E

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

03/27/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/554,306	<b>Applicant(s)</b> JOHNSON, JOHN PETER	
	<b>Examiner</b> FARZANA E. HOSSAIN	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10/04/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 8-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/13/2006</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on an application filed in Great Britain on April 4, 2003. Applicant has not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date.

2. The applicant's specification must note the priority of the PCT and foreign filed applications.

### ***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: System for Broadcasting Targeted Advertisements.

### ***Claim Objections***

4. Claim 16 is objected to because of the following informalities: Claim 16 recites "roost." The Office assumes "roost" to be --most--. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8, 10, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering et al (US 2004/0148625 and hereafter referred to as "Eldering") in view of Eldering (US 2005/0193410 and hereafter referred to as "Eldering2").

Regarding Claim 8, Eldering discloses a system for broadcasting advertisements to an audience which comprises:

means for obtaining program-receiving audience profiles (Pages 2-3, paragraphs 0034-0037, Page 4, paragraph 0071); means for matching a given advertisement's target audience profile to a given program-receiving audience profile (Page 3, paragraph 0038, Page 4, paragraph 0072);

and means for broadcasting advertisements dependent upon target audience profiles and program-receiving audience profiles (Figure 10, Page 5, paragraph 0078, Page 6, paragraph 0089-0091);

wherein: the means for obtaining program-receiving audience profiles operate with means for interrogating set top boxes with unique subscriber ID in order to

determine the nature of the programs viewed by the program receiving audience per at least one unique subscriber ID (Page 4, paragraph 0065, Page 4, paragraph 0071);

the means for broadcasting advertisements operate with means for analyzing viewer habits for particular subscriber IDs in order to generate a program-receiving audience profile for at least one subscriber ID (Page 4, paragraph 0065, Page 4, paragraph 0071, Page 6, paragraph 0091). Eldering discloses that sending advertisements to the user via IP addresses (Page 6, paragraph 0091). Eldering does not explicitly disclose interrogating a subscriber with individual IP address, analyzing viewer habits for particular IP addresses; means for dictating not only that certain advertisements shall be broadcast but also that certain IP addresses within the program-receiving audience may receive one advertisement, whilst other IP addresses receive a different advertisement, in at least one of the same respective advertisement `slots`, during the same broadcast.

In analogous art, Eldering<sup>2</sup> discloses a system for broadcasting advertisements to an audience which comprises: means for obtaining program-receiving audience profiles (Pages 2-3, paragraphs 0034-0037); means for matching a given advertisement's target audience profile to a given program-receiving audience profile (Page 2, paragraph 0034); wherein: the means for obtaining program-receiving audience profiles operate with means for interrogating set top boxes with individual IP addresses in order to determine the nature of the programs viewed by the program receiving audience per at least one IP address (Page 3, paragraph 0036, Page 6, paragraph 0074); the means for broadcasting advertisements operate with means for

analyzing viewer habits for particular IP addresses in order to generate a program-receiving audience profile or characteristics for at least one IP address (Pages 2-3, paragraphs 0033-0036, Page 6, paragraph 0074); and the system further comprises: means for dictating not only that certain advertisements shall be broadcast but also that certain IP addresses within the program-receiving audience may receive one advertisement, whilst other IP addresses receive a different advertisement, in at least one of the same respective advertisement `slots`, during the same broadcast (Page 1, paragraphs 0010-0011, Page 3, paragraphs 0045-0047, Page 6, paragraphs 0073-0074). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eldering to include interrogating a subscriber with individual IP address (Page 3, paragraph 0036, Page 6, paragraph 0074) analyzing viewer habits for particular IP addresses (Pages 2-3, paragraphs 0033-0036, Page 6, paragraph 0074); means for dictating not only that certain advertisements shall be broadcast but also that certain IP addresses within the program-receiving audience may receive one advertisement, whilst other IP addresses receive a different advertisement, in at least one of the same respective advertisement `slots`, during the same broadcast (Page 1, paragraphs 0010-0011, Page 3, paragraphs 0045-0047, Page 6, paragraphs 0073-0074) as taught by Eldering2 in order to present advertisements in an Internet environment for individualized service (Page 2, paragraph 0026) as disclosed by Eldering2.

Regarding Claim 10, Eldering and Eldering2 disclose all the limitations of Claim 8. Eldering discloses the system uses a bank of advertising campaigns where

advertising campaigns are classified by integrating numerically tagged segment codes or based on the selected advertisements, the advertisements are classified by integrating numerical codes or AD1, AD2, AD3 (Figure 10).

Regarding Claim 13, Eldering and Eldering2 disclose all the limitations of Claim 8. Eldering discloses the system stores as the program buyer profile, time of broadcast and nature of broadcast and utilizes an interface between the audience profiles data stored and the further information to select appropriate advertisements (Pages 2-3, paragraphs 0034-0036, Page 4, paragraphs 0065, 0071, Figure 9, Page 5, paragraph 0084).

Regarding Claim 17, Eldering and Eldering2 disclose all the limitations of Claim 8. Eldering discloses the information identified such as the audience profiles is stored remotely from the viewer/listener receiver units (Figure 1, 108, 100, Page 4, paragraph 0065).

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering in view of Eldering2 as applied to claim 8 above, and further in view of Ivanyi (US 6,286,140).

Regarding Claim 9, Eldering and Eldering2 disclose all the limitations of Claim 8. Eldering discloses storing data for analysis in a data collector located remotely from the set top boxes (Figure 1, 108, 100, Page 4, paragraph 0065). Eldering and Eldering2 are silent on the system collects data by using polling pulses. In analogous art, Ivanyi discloses the system collects data by using polling pulses or signals (Column 9, lines 5-

13, Column 10, lines 35-51). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include the system collects data by using polling pulses or signals (Column 9, lines 5-13, Column 10, lines 35-51) as taught by Ivanyi in order to efficiently collect data from a user device for a specific element of information such as polling data (Column 1, lines 28-41) as disclosed by Ivanyi.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering in view of Eldering2 as applied to claim 8 above, and further in view of Eyer et al (US 2002/0124253 and hereafter referred to as "Eyer").

Regarding Claim 11, Eldering and Eldering2 disclose all the limitations of Claim 8. Eldering discloses a first server for obtaining program-receiving profiles or information about the programs watched (Figure 1, 100, 108, Pages 2-3, paragraph 0034-0036, Page 4, paragraph 0065, 0071). Eldering and Eldering2 are silent on at least a second server containing tagged advertisements. In analogous art, Eyer discloses at least a second server containing tagged or selected advertisements (Page 2, paragraph 0015, Figure 2, 45, 48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include at least a second server containing tagged or selected advertisements (Page 2, paragraph 0015, Figure 2, 45, 48) as taught by Eyer in order to efficiently use broadcast bandwidth (Page 1, paragraph 0004) as disclosed by Eyer.



9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering in view of Eldering2 as applied to claim 8 above, and further in view of Eldering et al (US 2002/0083443 and hereafter referred to as "Eldering3").

Regarding Claim 12, Eldering and Eldering2 disclose all the limitations of Claim 8. Eldering and Eldering2 are silent on means for receiving multiple advertisements from a broadcast network and a mechanism for allowing the play-out of only a portion of the advertisements' broadcast whilst the remaining portion expires. In analogous art, Eldering3 discloses means for receiving multiple advertisements from a broadcast network and a mechanism for allowing the play-out of only a portion of the advertisements' broadcast whilst the remaining portion expires (Page 6, paragraphs 0085-0087). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include means for receiving multiple advertisements from a broadcast network and a mechanism for allowing the play-out of only a portion of the advertisements' broadcast whilst the remaining portion expires (Page 6, paragraphs 0085-0087) as taught by Eldering3 in order to provide a maximum number times to display an ad (Page 5, paragraph 0069) as disclosed by Eldering3 to make sure the subscriber is not bored with the same commercial several times.

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering in view of Eldering2 as applied to claim 8 above, and further in view of Zigmond et al (US 6,698,020 and hereafter referred to as "Zigmond").

Regarding Claim 14, Eldering and Eldering2 disclose all the limitations of Claim 8. Eldering and Eldering2 are silent on the limitations. Eldering and Eldering2 are silent on allowing the audience to interact during an advertisement, means which store data as part of the audience profile to record any such interaction and means which may be set to trigger the release of further similarly classified advertisements to the audience. Zigmond discloses allowing the audience to interact during an advertisement (Column 9, lines 21-55, Column 16, lines 57-67, Column 17, lines 1-9), means which store data as part of the audience profile to record any such interaction (Column 9, lines 21-55, Column 11, lines 13-30, Column 7, lines 50-65) and means which may be set to trigger the release of further similarly classified advertisements to the audience or advertisements of a subject which match the viewer and system information which includes interaction information (Column 9, lines 21-37, Column 13, lines 48-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination allowing the audience to interact during an advertisement (Column 9, lines 21-55, Column 16, lines 57-67, Column 17, lines 1-9), means which store data as part of the audience profile to record any such interaction (Column 9, lines 21-55, Column 11, lines 13-30, Column 7, lines 50-65) and means which may be set to trigger the release of further similarly classified advertisements to the audience or advertisements of a subject which match the viewer and system information which includes interaction information (Column 9, lines 21-37, Column 13, lines 48-57) as taught by Zigmond in order to allow advertisers to monitor business

activity before, during and after an advertising campaign (Column 3, lines 50-54) as disclosed by Zigmond.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering in view of Eldering2 as applied to claim 8 above, and further in view of Srinivasan et al (US 2002/0038455 and hereafter referred to as "Srinivasan").

Regarding Claim 15, Eldering and Eldering2 disclose all the limitations of Claim 8. Eldering and Eldering2 are silent on the limitations. Eldering and Eldering2 are silent on during a given broadcast with a plurality of advertisement breaks, the system is adapted to record for an individual audience the series of advertisements delivered during an initial break and then adjust the content of the following series of advertisements delivered during a subsequent break. In analogous art, Srinivasan discloses during a given broadcast with a plurality of advertisement breaks (Page 5, paragraphs 0061-0063), the system is adapted to record for an individual audience the series of advertisements delivered during an initial break (Figures 16-18, Page 6, paragraphs 0074-0076) and then adjust the content of the following series of advertisements delivered during a subsequent break (Figures 16-18, Pages 5-6, paragraphs 0069-0070, 0073). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination during a given broadcast with a plurality of advertisement breaks (Page 5, paragraphs 0061-0063), the system is adapted to record for an individual audience the series of advertisements delivered during an initial break (Figures 16-18, Page 6, paragraphs

0074-0076) and then adjust the content of the following series of advertisements delivered during a subsequent break (Figures 16-18, Pages 5-6, paragraphs 0069-0070, 0073) as taught by Srinivasan in order to allow system operators to provide advertisements to viewers for the time allotted for each break and to mix and match commercials based on this time for each demographic group (Pages 5-6, paragraphs 0068-0070) as disclosed by Srinivasan.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering in view of Eldering2 as applied to claim 8 above, and further in view of Zigmond and DePietro (US 2004/0111741 and hereafter referred to as "Depietro").

Regarding Claim 16, Eldering and Eldering2 disclose all the limitations of Claim 8. Eldering and Eldering2 are silent on the limitations. Zigmond discloses during a given broadcast on a given channel with a plurality of advertisement breaks (Figures 2A-B). Zigmond discloses that the system is adapted to record for an individual audience whether the viewer switches to another channel during the break (Column 9, lines 21-35, Column 7, lines 50-65) and that advertisements are tailored to the channel and content displayed on a channel (Column 10, lines 64-67, Column 11, lines 1-3, Column 12, lines 60-67, Column 13, lines 1-5) and to correspond to the audience in question (Column 13, lines 48-58). Zigmond is silent on means to calculate which channel he/she is likely to switch to and what m be the most probable channel. Depietro discloses calculating the channel the audience is likely to switch to and what must be the most probable channel (Page 3, paragraphs 0038-0039).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to during a given broadcast on a given channel with a plurality of advertisement breaks (Figures 2A-B), the system is adapted to record for an individual audience whether the viewer switches to another channel during the break (Column 9, lines 21-35, Column 7, lines 50-65) and that advertisements are tailored to the channel and content displayed on a channel (Column 10, lines 64-67, Column 11, lines 1-3, Column 12, lines 60-67, Column 13, lines 1-5) and to correspond to the audience in question (Column 13, lines 48-58) as taught by Zigmond in order to allow advertisers to monitor business activity before, during and after an advertising campaign (Column 3, lines 50-54) as disclosed by Zigmond.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include calculating the channel the audience is likely to switch to and what must be the most probable channel (Page 3, paragraphs 0038-0039) as taught by Depietro in order to save on cost for receiving and processing every digital channel when simply predicting channel surfing behavior would eliminate delay (Page 1, paragraph 0010) as disclosed by Depietro.

### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FARZANA E. HOSSAIN whose telephone number is (571)272-5943. The examiner can normally be reached on Monday to Friday 7:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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FEH  
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